THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

Writ Petition No.3990 of 2007

ORDER:

The petitioners seek a Writ of *mandamus* or direction declaring the action of the respondents in interfering with the construction and in demolishing the compound wall of the petitioners' plots as illegal, arbitrary and violative of Article 300-A of the Constitution of India and for consequential direction to the respondents not to interfere with their possession and for payment of compensation for the demolition of structures.

The case of the petitioners seems to be that they purchased various extents of plots in Sy.Nos.4, 8 and 9 of Hasmathpet village, situate at Sai Sagar Enclave within Kukatpally Municipality, Ranga Reddy District, under various sale deeds. After their purchase, the land was got surveyed and the Mandal Revenue Officer gave a certificate stating that the land belongs to the petitioners was covered by Sy.No.4. Thereupon, the petitioners applied to the Kukatpally Municipality and HUDA for grant of permission for construction of residential houses in the plots belonging to them and the municipality granted the necessary permissions on various dates. In the meanwhile, one, M.Rajasekhar Reddy and one, A.Srinivas, started interfering with the construction activity of the petitioners and therefore, petitioners were constrained to file civil suits against them for injunction, and temporary injunction was granted by the trial Court and the same was subsisting. While the matter stood thus, the Inspector of Police, Alwal Police Station, Cyberabad, started interfering with the construction activity on the ground that the second respondent lodged a complaint on 07-12-2006 stating that

the illegal constructions were going on in Sy.No.1 of Hasmathpet Village, which was covered by C.S.No.14 of 1958 and requested the Police to see that the construction was stopped until further orders to be passed by the High Court in W.P.No.5111 of 2005. The petitioners claim that they are not parties to the Writ Petition No.5111 of 2005. The petitioners, therefore, constrained to file W.P.No.25831 of 2006 in the High Court for declaration that the action of the Inspector of Police, Alwal, in having asked the petitioners to give undertaking and not to make constructions as illegal, arbitrary and without jurisdiction. That Writ Petition was disposed of on 18-01-2007 recording the undertaking of the Circle Inspector that he would not interfere in the civil dispute or the lawful activity of the petitioners. After the disposal of the said Writ Petition, the respondents again started interfering with the construction activity of the petitioners. Therefore, the petitioners got issued a notice dated 01-02-2007. The second respondent, in the meanwhile, highhandedly visited the site of the petitioners and got the constructions demolished without serving any notice on the petitioners. Hence, the writ petition.

W.P.No.5111 of 2005 has been disposed of by this Court dismissing the same. The interim direction given in that Writ Petition culminated in the final order passed in the Writ Petition. Therefore, there has been no necessary cause of action for the respondents to interfere with the construction activity of the petitioners. Even otherwise, without any due process, the respondents cannot interfere with the construction activity of the petitioners or their possession over the land in dispute like any private parties. They, being the public functionaries, should take action only in accordance with law. Therefore, the Writ Petition shall have to be disposed of with a direction to the respondents

that they shall follow the due process of law and without the same, they cannot interfere with the possession of the petitioners over the land in dispute.

The Writ Petition is accordingly disposed of with the said direction. No order as to costs.

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T.CH.SURYA RAO, J.

20th April, 2007.

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THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

Writ Petition No.3990 of 2007

Dated 20-04-2007

Between:

Hemanth Kumar Sharma and three others .. Petitioners

and

The Mandal Revenue Officer,
Balanagar Mandal,
Ranga Reddy District and three others ..
Respondents